

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

Item No. 132

(IB)-448(PB)/2017

IN THE MATTER OF:

Rajendra Kumar Saxena

.... Applicant/petitioner

Vs.

Earth Gracia Buildcon Pvt. Ltd.

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 07.05.2019

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR

HON'BLE PRESIDENT

SH. S. K. MOHAPATRA

HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Ajay Kumar Jain, Mr. Sourti Arora, Advs.
with Ms. Manisha Rawat, IRP

ORDER

CA-784(PB)/2019:-

This is an application filed by the Resolution Professional Ms. Manisha Rawat under Section 60 (5) of the Code, 2016 with a prayer for issuance of directions to Economic Offence Wing, Delhi Police to lift the attachment and defreeze the bank accounts of the Corporate Debtor as per the details mentioned in the para 7 of the application to enable the Resolution Professional to conduct the CIR Process as substantial funds of the corporate debtor are deposited in these bank accounts and the same needs to be utilised to carry on the process. The following details in para 6 have been given which records in the form of a table:-



S. No.	Name of Project	Company Name	Bank Name	Account No.	Branch Address
1	Earth Gracia	Earth Gracia Buildcon Pvt Ltd.	Indian Bank	CA 006068781899	ER-41-A, INDER PURI, NEW DELHI-110012
2	Earth Gracia	Earth Gracia Buildcon Pvt Ltd.	Yes Bank	023784900000032	GROUND FLOOR, E-34, BLOCK-E, NARAIN A VIHAR, NEW DELHI-110028
3	Earth Gracia	Earth Gracia Buildcon Pvt Ltd.	HDFC Bank	50200005847210	53/3, DB GUPTA ROAD, BLOCK-53 KAROL BAGH, NEW DELHI-110005
4	Earth Gracia	Earth Gracia Buildcon Pvt Ltd.	Axis Bank	914020034193136	PLOT NUMBER 5 & 6, LOCAL SHOPPING CENTRE, DP BLOCK, PITAMPURA, DELHI-110085
5	Earth Gracia	Earth Gracia Buildcon Pvt Ltd.	Corporation Bank	179601601000072	C-32, C BLOCK POCKET C, SECTOR-18 NOIDA U.P.-201301

The details of the matter pending before EOW, Delhi Police has been given which shows that the FIR Nos. 43 of 2016, 112 of 2016 and 113 of 2016 have been registered at EOW Police Station, New Delhi and the bank accounts of 3 of the 5 banks i.e. HDFC Bank, Axis Bank and Indian Bank have been frozen.

Notice of the application was issued and according to the affidavit of service filed, the notices have been served on the Indian

Bank, Yes Bank, HDFC Bank, Axis Bank and Corporation Bank and their respective branches as per the details given the table as well as the EOW, Delhi Police. Despite notices having been served, no one has put an appearance on their behalf. Accordingly, they are proceeded ex parte.

On behalf of the RP, it has been asserted that he/she is required to undertake immediate custody and control of all assets of the corporate debtor as provided under Section 18 (1)(f) read with Section 25 (2) of the Code. The IRP/RP is bound to carry operations of the corporate debtor as a going concern in consonance with Section 20 of the Code. The assets of the corporate debtor attached by EOW, Delhi Police are required to meet day to day expenses of the corporate debtor including the supplies of the essential goods and services to the corporate debtor.

Keeping in view the aforesaid mandatory statutory duty to be performed by the IRP/RP, the prayer in the application is made for defreezing of the bank accounts of the corporate debtor.

Having heard the learned counsel for the RP, we are of the considered view that the bank accounts which have been frozen on the directions issued by the EOW, Delhi Police on behalf of various FIRs referred above are required to be defrozen so as to enable the RP to conduct the CIR Process by utilising the funds deposited



therein. Accordingly, we direct the Yes Bank, Indian Bank, HDFC Bank, Axis Bank and Corporation Bank to defreeze the accounts of the corporate debtor and also direct the EOW, Delhi Police not to insist on the freezing of accounts as the CIR Process is required to be conducted in accordance with the provisions of the Code. Moreover, moratorium under Section 14 is in operation and Section 238 excludes, the jurisdiction of all other statutory bodies. Reliance is placed on the judgment of the Hon'ble Supreme Court rendered in the case of Principal Commissioner of Income Tax v. Monnet Ispat and Energy Ltd. (Special Leave to Appeal (C) No. 6483/2018 decided on 10.08.2018).

The application stands disposed of.

Sd/-

(M. M. KUMAR)
PRESIDENT

Sd/-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)